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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,788

Applicant(s)

HERMAN, DAVID K.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's "Amendment in Response to Non-Final Office Action" filed on July 26, 2004 has been considered.

Applicant's response by virtue of amendment to claim 1 has overcome the Examiner's rejection of such claims 1-13 under 35 USC 101.

Claims 1, 14, and 20 are amended. Claims 1-20 remain pending in this application.

Response to Arguments

Applicant's arguments filed on July 26, 2004 have been fully considered but they are not persuasive.

Please note, Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Applicant remarks that Gleditsch fails to teach or suggest a method, apparatus, system, or module "which receives at least one projected requirement from a customer

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for a product, as required by the above recitation portions of independent claims 1, 14, and 20".

The Examiner notes that Gleditsch does teach or suggest, "which receives at least one projected requirement from a customer for a product". Gleditsch discloses a system and method of a scheduling demand for a manufacturing resource in response to a customer order for a product (Abstract). The customer order amount and the date requested for the order are entered into the system (Abstract). Furthermore, Gleditsch discloses a generated order is based on whether sufficient manufacturing resources may be allocated in time to produce a customer order by a customer requested build completion date (col. 5, lines 56-60). Such customer order for a product, wherein the order amount and the request date is entered is considered the receiving at least one projected requirement from a customer for a product.

Applicant remarks that that there is "no forecasting performed....As such, this portion of Gleditsch cannot anticipate the claimed invention because of the independent claim require predicting, i.e., forecasting amounts, and Gleditsch performed no forecasting in this mode.....therefore also fails to disclose or suggest receiving at least one standard order".

The Examiner notes that the "forecasting" mode or performed is not commensurate with the scope to the recitations of claim 1. Nonetheless, Gleditsch does disclose the forecasting of a customer's order for a product. Gleditsch discloses the calculation of dealer demand by the computer system and method that is based on anticipated forecasting for a manufactured product and certain predetermined

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parameters associated with the manufacturing resources (col. 1, lines 11-16).

Furthermore, Gleditsch discloses a method and system to calculate certain materials or resources that are going to be needed based on when a customer order needs to be filled and hence the system and method can determine the date when the manufacturer needs to purchase materials, etc, so as to plan to make those other resources available to produce the goods in time to meet a promised shipping date for an order to the customer (col. 3, lines 61-col. 4, line 3). Such calculation of dealer demand or certain materials or resources based on a customer order is considered forecasting.

Furthermore, the Examiner notes that Gleditsch does teach or suggest the standard order. Gleditsch discloses a method and system to calculate materials or resources that are going to be needed based on when a customer order needs to be filled and hence the system and method can determine the date when the manufacturer needs to purchase materials, etc (based on known supplier lead time), so as to plan to make those resources available to produce the goods in time to meet a promised shipping date for an order to the customer (col. 3, lines 61-col. 4, line 3). Such calculating for materials or resources that are going to be needed based on a customer order needs and determining the date when the manufacture needs the material, in order to meet a promised shipping date of a customer are considered a standard order.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 9-11, 14-15, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,415,194 to Gleditsch et al.

Regarding claim 1, Gleditsch discloses a method of processing order information for a product (abstract) from a customer, comprising:

- receiving, by a computer system, at least one projected requirement from a customer for the product, the projected requirement including a projected quantity and a projected date on which the projected quantity will be required the by customer (see at least abstract; col. 5, lines 29-31; col. 5, lines 56-60; col. 12, lines 9-32);
- generating, at the computer system, a pull order for the product, where said pull order is based on at least one projected requirement, the pull order comprising a predicted quantity of end products and predicted date on which the predicted quantity will be required by the customer (see at least col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65);
- directing, from the computer system, production of the predicted quantity of the product (see at least col. 9, lines 17-20; col. 10, lines 17-21);
- receiving, at the computer system, at least one standard order for the product from the customer, the standard order including a quantity required immediately

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by the customer (see at least col. 10, lines 48-54; col. 12, lines 32-34; col. 17, lines 16-18);

- recalculating, at the computer system, the predicted quantity of the product by decrementing the predicted quantity by immediately required quantity (see at col. 1, lines 11-20; col. 3, line 61 – col. 4, line 6; col. 5, lines 61-65; col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57); and
- directing delivery, from the computer system, of the immediately required quantity of the product to the customer (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Regarding claims 9-11 and 15, Gleditsch discloses directing production of an additional quantity in addition to the predicted quantity to protect against last minute revisions of the projected requirements of the customer (see at least col. 4, lines 38-44; col. 12, lines 42-57; col. 17, lines 14-44); and reserving the additional quantity for delivery only to the customer (see at least col. 4, lines 38-44; col. 12, lines 42-57; col. 17, lines 14-44); and identifying at least one subassembly included in the pull order capable of inclusion in a plurality of different end products (see at least col. 4, lines 45-48; col. 11, lines 54-65).

Regarding claim 14, Gleditsch discloses a system for processing order information for a product (abstract) from a customer comprising:

- a receiver module for receiving at least one projected requirement for the product from a customer and receiving at least one standard for from the customer for the product, the projected requirement including a projected quantity and a projected

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date on which the projected quantity will be required by the customer and the standard order including a quantity required immediately by the customer (see at least abstract; col. 5, lines 29-31; col. 5, lines 56-60; col. 10, lines 48-54; col. 12, lines 9-32; col. 12, lines 32-34; col. 17, lines 16-18);

- a process module for generating a pull order for the product using the at least one projected requirement, the pull order including a predicted quantity of end products and a predicted date on which the predicted quantity will be required by the customer (see at least col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65);
- a planning and manufacturing module for directing production of the predicted quantity of the product (see at least col. 9, lines 17-20; col. 10, lines 17-21);
- an order management and planning module (see at col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57);
- a logistic module for directing delivery (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Regarding claim 20, Gleditsch discloses a system for processing order information from a customer for a product (abstract) comprising:

- a plurality of modules configured for processing the order information (col. 1, lines 8-21) comprising:
- a receiver module for receiving at least one projected requirement for the product from a customer and receiving at least one standard for from the customer, the projected requirement including a projected quantity and a projected date on

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- which the projected quantity will be required by the customer and the standard order including a quantity (see at least col. 5, lines 29-31; col. 5, lines 56-60; col. 10, lines 48-54; col. 12, lines 9-32; col. 12, lines 32-34; col. 17, lines 16-18);
- a process module for generating a pull order for the product using the at least one projected requirement, the pull order including a predicted quantity of end products and a predicted date on which the predicted quantity will be required by the customer, the process module identifying at least one sub-assembly include in the pull order (see at least col. 4, lines 45-48, col. 11, lines 54-65; col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65)
 - a planning and manufacturing module (see at least col. 9, lines 17-20; col. 10, lines 17-21);
 - an order management and planning module (see at col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57);
 - a logistic module (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al as applied to claim 1 above, and

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further in view of U.S. Patent No. 4,958,292 to Kaneko. Gleditsch substantially discloses the claimed invention, however, it does not disclose a plurality of delivery destinations. Gleditsch discloses the completion and shipment of an order (col. 2, lines 46-47). Furthermore, Gleditsch discloses the past customer shipment history (col. 3, lines 58-59) and that shipments can be done by portion such as 100 units of the product to be shipped on day 9 and 50 units can be shipped on day 4 (col. 17, lines 45-47). Kaneko, on the other hand, teaches the plurality of delivery destinations, the delivery includes directing a subset of the immediately required quantity to each of the delivery designations (see at least col. 6, lines 45-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the plurality of delivery destinations, as taught by Lubenow, in order to provide a physical distribution of products in the proper quantities in the most efficient manner and then improve the efficiency of the present production (col. 21, lines 23-27).

Claims 3-6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al as applied to claim 1 above, and further in view of U.S. Patent No. 6,148,291 to Radican.

Regarding claims 3-4 and 17, Gleditsch substantially discloses the claimed invention, however, it does not disclose debiting an account of the customer according to a current price of the immediately required quantity; and the account is debited when the immediately required quantity is shipped to the customer. Gleditsch discloses an output device, which may generate purchase orders and linked to an ordering system of

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suppliers or customers (col. 4, lines 28-33). Radican, on the other hand, teaches the debiting an account, as recited in the claims (see at least col. 6, lines 63-col. 7, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the debiting of an account, as taught by Radican, in order to generate bills to customers with actual confirmation that a particular delivery has been made (col. 7, lines 5-7).

Regarding claims 5-6, Gleditsch substantially discloses the claimed invention, however, it does not disclose the Internet. Gleditsch discloses the computer system used in manufacturing resource planning (see at least col. 1, lines 7-8). Radican, on the other hand, teaches the Internet (see at least col. 5, lines 32-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the Internet, as taught by Radican, in order to provide global communication anywhere in the world.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al. in further view of U.S. Patent No. 6,055,519 to Kennedy.

Regarding claims 7-8, Gleditsch substantially discloses the claimed invention, however, it does not explicitly disclose wherein when the immediately required quantity is available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention; and wherein when the immediately required quantity is not available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention as to an immediately available subset of

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the immediately required quantity, production is directed of a remainder of the immediately required quantity, and the act of directing delivery is performed at a later time for the remainder of the immediately required quantity. Gleditsch discloses the reasonable amounts of the inventory of raw materials and subassemblies are maintained on hand in order to provide sufficiently capacity to meet unanticipated demand (col. 6, lines 3-6).

Kennedy, on the other hand, teaches the immediately required quantity is available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention; and wherein when the immediately required quantity is not available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention as to an immediately available subset of the immediately required quantity, production is directed of a remainder of the immediately required quantity, and the act of directing delivery is performed at a later time for the remainder of the immediately required quantity (see at least col. 2, lines 21-41; col. 2, lines 54-63; col. 6, lines 43-50; col. 7, line 66-col.8, line 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the immediate required quantity for immediate delivery and when the immediate required quantity is not available for immediate delivery, the act of directing delivery is performed immediately when available, as taught by Kennedy, in order to provide what a buyer wants and what the seller is willing to do (Kennedy col. 6, lines 50-52).

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al. in further view of U.S. Patent No. 6,609,101 to Landvater.

Regarding claims 12-13, Gleditsch substantially discloses the claimed invention, however, it does not explicitly disclose the Bill of Materials. Gleditsch discloses a method which is able to calculate when certain amounts of raw materials or other manufacturing resources are going to be needed based on when a customer order needs to be filled, and hence the method can additionally determine the date when the manufacturer needs to purchase or produce raw materials, refills, and the like (based on known supplier or manufacturing lead time), and plan to make those other resources available to produce the goods in time to meet a promised shipping date for an order to the customer. The method manages materials and other resources and may integrate the planning of manufacturing resources with an order acknowledgement. (See col. 3, line 61 – col. 4, line 6). Landvater, on the other hand, teaches the Bill of Materials (see at least col. 9, line 66 – col. 10, line 4). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the Bill of Materials, as taught by Landvater, in order to identify and quantify the material that go into an end or final product (col. 9, lines 66-col.10, line 1).

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch. Regarding claims 18-19, Gleditsch substantially discloses the claimed invention, however, it does not teach the specific system to receive data. However, the specific system to receive data does not

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patentably distinguish the claimed system. Further, the recited statements of the received data from a manufacturing and resource planning and via an electronic data interchange system do not patentably distinguish the claimed system. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide any type of system to receive data, taught by Gleditsch, because the subjective interpretation of the system does not patentably distinguish the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
October 17, 2004

Randa Hamm 10/18/04
Primary Examiner